

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Jennifer Artesi)	
)	
v.)	Civil Action No.: 1:19-CV-00214-SM
)	
DeMoulas Super Markets, Inc. d/b/a)	
Market Basket, and)	
Dennis Labatte)	

Excerpts of the Deposition of
Jennifer Artesi
In support of the Defendants’
Motion for Summary Judgment

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW HAMPSHIRE

3 *****

4 JENNIFER ARTESI f/k/a *
5 JENNIFER TAPSCOTT, *
6 Plaintiff, *

7 vs.

* Docket No.:
* 1:19-CV-00214-AJ

8 DEMOULAS SUPER *
9 MARKETS, INC., d/b/a *
10 MARKET BASKET and *
11 DENNIS LABATTE, *
12 Defendants. *

13 *****

14 **DEPOSITION OF JENNIFER ARTESI**

15 Deposition taken by agreement
16 at the Fox Hill Farm,
17 333 Holderness Road, Center
18 Sandwich, New Hampshire, on
19 Thursday, November 7, 2019,
20 commencing at 10:10 a.m.

21 Court Reporter: Sharon R. Fagan, LCR, RPR
22 N.H. Licensed Court Reporter
23 No. 64

APPEARANCES

For the Plaintiff: LAW OFFICES OF
LESLIE H. JOHNSON, PLLC
46 Holderness Road
Center Sandwich, NH 03227
By: Leslie H. Johnson, Esq.

For the Defendants: MAGGIOTTO, BELOBROW,
FEENEY & FRAAS, PLLC
58 Pleasant Street
Concord, NH 03301
By: Dona Feeney, Esq.

Also present: Joseph W. Schmidt,
Store Operations
DeMoulas Market Basket

STIPULATIONS

It is agreed that the deposition shall be taken in the first instance in stenotype and when transcribed may be used for all purposes for which depositions are competent under Federal Rules of Civil Procedure.

Notice, filing, caption and all other formalities are waived. All objections except as to form are reserved and may be taken in court at time of trial.

It is further agreed that if the deposition is not signed within thirty (30) days after submission to counsel, the signature of the deponent is waived.

1 right, he called Palm Partners in West Palm Beach; is
2 that accurate?

3 A. He called a referral service, a
4 referral number.

5 Q. And then what happened?

6 A. They referred him to that place.

7 Q. Palm Partners?

8 A. I believe that's who he spoke to.

9 Q. And how did it happen that you then
10 were flown down to Florida?

11 A. They got me a ticket -- they paid -- as
12 long as I could get to the airport, they were going
13 to fly me out to Florida to go to the facility.

14 Q. Did you yourself have any conversations
15 with anybody at the organization that was flying you
16 down?

17 A. No.

18 Q. Had you ever taken any treatment or
19 services for alcoholism prior to December 29, 2016?

20 A. Yes.

21 Q. Where and when?

22 A. In 2000, I went to the Portsmouth
23 Pavilion. I believe it was August 12, 2000.

1 Q. Was that inpatient or outpatient care?

2 A. Inpatient.

3 Q. For how long?

4 A. Seven days, maybe.

5 Q. And who was the healthcare provider
6 that you saw?

7 A. I don't remember.

8 Q. What led you to seek treatment at the
9 Portsmouth Pavilion in 2000?

10 A. My drinking was interfering with
11 everyday life.

12 Q. Were you working at the time?

13 A. Yes.

14 Q. And where were you working?

15 A. DeMoulas Market Basket.

16 Q. Were you working full-time at that time
17 you entered the Portsmouth Pavilion?

18 A. Yes.

19 Q. Did you have to take time off?

20 A. Yes.

21 Q. Did you put in for FMLA time?

22 A. I believe so.

23 Q. And you were able to take the time and

1 then return to work?

2 A. Yes.

3 Q. How long were you out of work at that
4 time, do you recall?

5 A. I don't remember.

6 Q. Was it longer than the seven days you
7 were an inpatient at the Portsmouth Pavilion?

8 A. I'm not sure.

9 Q. What other healthcare providers were
10 you seeing in 2000 --

11 A. I can't remember.

12 Q. -- other than Dr. Yarian?

13 A. I know I had seen -- just before that,
14 I had seen Dr. Schopick in Portsmouth.

15 Q. Do you know how to spell Dr. Schopick's
16 name?

17 A. S-c-h --

18 Q. It's an "S"?

19 A. Yes.

20 Q. And what kind of doctor is
21 Dr. Schopick?

22 A. Psychiatrist. The one that prescribes
23 the medications.

1 Q. And Palm Partners is located in
2 South Miami; is that correct?

3 A. I think it's West Palm Beach.

4 Q. West Palm.

5 A. I might have a card. Do you want me to
6 look?

7 MS. JOHNSON: Just answer the question.

8 Q. (By Ms. Feeney) Well, yeah, I mean --

9 A. I believe it's West Palm.

10 Q. Okay. If you have any information with
11 you that would help me with the address, when we take
12 the next break, I'm going to ask you to take a look
13 for it. Okay?

14 A. Okay.

15 Q. And so was Palm Partners the name of
16 the facility in West Palm Beach?

17 A. Yes.

18 Q. So how long did you stay there?

19 A. From December 29th until either
20 January 3rd or 4th.

21 Q. And who was the healthcare provider
22 that you saw while you were in Palm Partners?

23 A. I don't recall.

1 Q. Did you make application for leave from
2 DeMoulas during the time you were at Palm Partners?

3 A. While I was at Palm Partners?

4 Q. Yes.

5 A. No.

6 Q. Did you have someone on your behalf
7 make an application for leave from DeMoulas when you
8 were at Palm Partners?

9 A. No.

10 Q. Who is Linda Drury? Can you take back
11 -- look back at Exhibit 4, please?

12 A. Yeah.

13 Q. Who is Linda Drury?

14 A. A coworker at Market Basket.

15 Q. And does she still work at
16 Market Basket?

17 A. I don't know.

18 Q. How long did you work as coworkers with
19 Linda Drury, D-r-u-r-y?

20 A. I'm not sure, but it could have been a
21 year or more.

22 Q. And you indicate in Exhibit 4 that she
23 was a witness to comments that were made towards you

1 A. She was my produce manager at
2 Market Basket.

3 Q. So when Marc Plante drove you to Logan
4 to get on the flight to go to Florida on December the
5 29th, who was it that you had contact your employer,
6 Market Basket, after December the 29th?

7 A. My husband.

8 Q. And what did you instruct your husband
9 to do?

10 A. To call and say I wouldn't be in.

11 Q. When did you tell your husband to call
12 your employer and tell them that you wouldn't be in?

13 A. The night I arrived at Palm Partners,
14 they let me use the phone to contact him.

15 Q. Did you tell your husband before you
16 got on the plane to Florida that you were going to
17 Florida for detox care?

18 A. No.

19 Q. Why not?

20 A. I can't answer that.

21 Q. Why?

22 A. It was -- because I had asked Marc to
23 help me, and spur of the moment, because I had a

1 facility, so I got on the plane and jumped on the
2 offer. I don't know if those were my wordings,
3 but.....

4 Q. Understood. And so you told him that
5 you had an opportunity to go to this detox facility
6 in Florida and you took advantage of it -- just
7 paraphrasing -- is that accurate?

8 A. Yes.

9 Q. What else did you talk about?

10 A. Just about calling work for me.

11 Q. And did you tell him to speak to anyone
12 in particular?

13 A. Yes.

14 Q. Who did you tell him to talk to?

15 A. Mandy, my manager.

16 Q. And what did you tell him to tell
17 Mandy, your manager?

18 A. That I wouldn't be in that day.

19 Q. But you were aware that you were in a
20 detox facility in Florida, so you weren't going to be
21 out the same day; correct?

22 A. That I was going to be out, and I
23 believe he had mentioned until further notice. I

1 that prior to that, you were at the Rochester
2 location from approximately November of 2001 until
3 May of 2006.

4 Does that sound about right?

5 A. Yes.

6 Q. How long were you, in fact -- strike
7 that.

8 You told me you were at Palm Partners
9 until January 3rd or January 4th of 2017; is that
10 accurate?

11 A. I'm not sure of the date, but it was
12 somewhere there.

13 Q. What facility did you go to after that?

14 A. The G & G.

15 Q. The G & G facility? Is that a separate
16 facility?

17 A. Yes. It's the one I gave you the card.

18 Q. I know you gave me the card. Is it --

19 A. Yes.

20 Q. Let me finish the question. Is it a
21 separate facility than the Palm Partners facility?

22 A. Yes.

23 Q. And understanding that the person

1 we discussed may no longer be with G & G; G & G is
2 another facility.

3 A. Yes.

4 Q. And where is that facility located?

5 A. Miami, Florida.

6 Q. And why were you admitted to the G & G
7 facility in Miami, Florida, after your stay at
8 Palm Partners?

9 A. For further treatment of alcoholism.

10 Q. How long were you there?

11 A. Until February 8th, 2017.

12 Q. And you told me that facility is in
13 Miami; is that correct?

14 A. Yes.

15 Q. Were you at the same G & G facility for
16 the entire time?

17 A. Yes.

18 Q. And when you were discharged from that
19 facility on February 8, 2017, where did you go?

20 A. I came home.

21 Q. To New Hampshire?

22 A. Yes.

23 Q. To the address you told us earlier in

1 the deposition.

2 A. Yes.

3 Q. Did you or anyone on your behalf notify
4 anyone at Market Basket about the Palm Partners
5 location during the time that you were an inpatient
6 there?

7 A. I don't believe so.

8 Q. Did anyone on your behalf or you notify
9 anyone at Market Basket about the further inpatient
10 treatment at G & G?

11 A. No.

12 Q. Did you notify your husband that you
13 were switching from the Palm Partners inpatient care
14 to G & G?

15 A. Yes.

16 Q. When did you talk to him?

17 A. I'm not sure.

18 Q. During the time period between
19 December 29th, 2016, and January 3rd or 4th, 2017,
20 while you were an inpatient at Palm Partners, on how
21 many occasions did you speak to your husband?

22 A. Just that one time when I got there.

23 Q. Were you allowed to make phone calls to

1 When you were discharged from
2 Palm Partners, did you go directly to G & G?

3 A. Yes.

4 Q. And so you spent approximately another
5 month at G & G as an inpatient; correct?

6 A. Yes.

7 Q. Did you inform your husband about this
8 new facility that you were at?

9 A. Yes.

10 Q. And when did you talk to your husband
11 about the fact that you were moving from Palm
12 Partners to G & G?

13 A. I'm not sure.

14 Q. Was it while you were still at
15 Palm Partners or was it after you got to G & G?

16 A. I believe it was when I got to G & G.

17 Q. Did you call your husband?

18 A. Yes.

19 Q. And what did you tell him?

20 A. I don't remember what I told him, but I
21 told him that I was staying longer at a treatment
22 center.

23 Q. Did you give him any instructions to

1 speak to anybody at your place of employment?

2 A. No.

3 Q. Who was getting your mail while you
4 were an inpatient at Palm Partners?

5 A. John.

6 Q. Your husband.

7 A. My husband.

8 Q. And who was getting your mail while you
9 were an inpatient at G & G?

10 A. My husband.

11 Q. Had you left instructions when you
12 spoke to John after you transferred from Palm
13 Partners to G & G to make sure that he was opening
14 your mail?

15 A. No.

16 Q. Did you expect that he would open your
17 mail since you were continuing --

18 A. No.

19 Q. Let me finish. Did you expect that he
20 would be opening your mail since you were continuing
21 on in inpatient care?

22 A. No.

23 Q. Did you instruct anyone, Marc Plante or

1 down. If it comes to you, let me know.

2 So the hospital for pancreatitis?

3 A. Yes.

4 Q. And that was around February the 3rd?

5 A. I went in the 2nd.

6 Q. Okay.

7 A. February 2nd.

8 Q. All right. And it starts with an "A."

9 And it's in Miami?

10 A. I think it's right out of Miami.

11 Q. All right. And you went there with
12 pancreatitis.

13 So it looks like there's another number
14 after your husband's number that you call on the same
15 day shortly after that, 868-6786.

16 Whose number is that?

17 A. That's my mother.

18 Q. And where does your mother live?

19 A. Florida.

20 Q. Where in Florida?

21 A. Port Orange.

22 Q. And what is your mother's full name?

23 A. Elaine MacDonald.

1 Q. And why were you calling your mother?

2 A. To tell her I was in the hospital.

3 Q. Did your mother know you had been down
4 in Florida since late December in each of two
5 different facilities?

6 A. I believe so.

7 Q. How would she have known?

8 A. I probably called her once I got out of
9 the Palm Partners.

10 Q. The number under your mother's on
11 February 4th is your husband again; correct?

12 A. The 269, yes.

13 Q. Correct. Okay. So that's your
14 husband. It looks like you were on the phone with
15 your husband for almost 30 minutes on that day.

16 Were you in the medical hospital at
17 that time?

18 A. I don't remember -- I left that day. I
19 don't remember what time I left.

20 Q. You left what, I'm sorry?

21 A. The general hospital. I left that
22 hospital to go back to G & G on the 4th.

23 Q. How long were you in the general

1 leave.

2 A. I didn't have anybody --

3 Q. I'm not being -- it's not judgmental.

4 MS. JOHNSON: Can she finish her
5 answer?

6 (By Ms. Feeney) Just tell me, you chose
7 to stay, not to leave.

8 A. Yes.

9 Q. Okay. That's fine.

10 So from January 18, 2017 to
11 January 28, 2017, you had what you've described as
12 this outpatient status, but you didn't have anyplace
13 to go to stay, so you stayed there; correct?

14 A. Yes.

15 Q. Did the privileges that you had change
16 during the time that you had self-help outpatient
17 status?

18 A. No. You also were allowed to leave to
19 go to AA meetings off the premises, but other than
20 that, no.

21 Q. Could you use the phone?

22 A. Yeah. We were allowed to use our
23 phone.

1 remember it as you sit here; is that fair?

2 A. Yes.

3 Q. All right.

4 MS. JOHNSON: Off the record.

5 (Off-the-record discussion.)

6 MS. FEENEY: Back on.

7 (Back on the record.)

8 Q. (By Ms. Feeney) Exhibit 5 is notifying
9 you about what happens to your benefits while you are
10 on leave at the company; correct?

11 A. Yes.

12 Q. All right.

13 (Artesi Exhibit No. 6 was
14 marked for identification.)

15 Q. (By Ms. Feeney) I'd like to show you
16 what's been marked Exhibit 6. It's a series of
17 documents, notices to you from Market Basket
18 concerning your benefits in the time frame of late
19 June 2011.

20 Can you take a look at that for me,
21 please?

22 A. Yes.

23 MS. JOHNSON: Look at each page. Okay.

1 Five and six. All right. I just don't have a copy
2 of 5. I just want to make sure I know what we're
3 talking about.

4 So just look at each page. You don't
5 have to read the whole thing. Just see if it looks
6 familiar.

7 Q. (By Ms. Feeney) All I want to know
8 is -- it's substantially similar to the one I just
9 had marked as Exhibit 5. This is a different year,
10 June of 2011 -- does this look familiar to you?

11 A. Yes.

12 Q. This is something you would have
13 received as part of your leave of absence when you
14 were at Market Basket; correct?

15 A. Yes.

16 Q. Do you remember what you took the leave
17 of absence for in 2011?

18 A. Shoulder repair.

19 Q. Shoulder repair. Right or left?

20 A. Left.

21 Q. Had you injured it or was it just
22 something that wore out, or do you recall?

23 A. It happened at work. I injured it.

1 Q. Was it -- what was the surgery for?

2 A. A torn rotator cuff.

3 Q. But on the left side.

4 A. Yes.

5 MS. JOHNSON: Off the record.

6 (Off-the-record discussion.)

7 (Back on the record.)

8 Q. (By Ms. Feeney) So staying with the
9 time frame of June 2011, you had a torn rotator cuff
10 on the left side that made you be out of work for,
11 what did you say, 12 weeks?

12 A. 11 or 12.

13 Q. Okay. Fair enough. Some period of
14 weeks. And you were on leave for that and you
15 received these letters as part of it; is that
16 correct?

17 A. Yes.

18 Q. And was the torn rotator cuff something
19 that was a work-related injury?

20 A. Yes.

21 Q. All right.

22 (Artesi Exhibit No. 7 was
23 marked for identification.)

1 Q. (By Ms. Feeney) I'd like to show you
2 what we've had marked as Exhibit 7, again, letters
3 concerning benefit continuation notices. This time
4 frame is August of 2013.

5 MS. JOHNSON: So look at each page so
6 you know what you're looking at.

7 Q. (By Ms. Feeney) What caused you to be
8 out of work in August of 2013, do you recall?

9 A. I tore my bicep on my left shoulder.

10 Q. Was that a work-related injury?

11 A. Yes.

12 Q. Did you have to have surgery?

13 A. Yes.

14 Q. And how long were you out of work, do
15 you recall? Just approximately.

16 A. Does it say?

17 Q. No. That's why I'm asking.

18 A. 10, 11 weeks.

19 Q. Okay. So a period of time longer than
20 a month or so.

21 A. Yeah.

22 Q. And those are the notices that you got
23 as a result of being out on leave in Exhibit 7;

1 correct?

2 A. Yes.

3 Q. All right. Would you take a look,
4 please, at Exhibit 4, Page JA-17.

5 A. (Witness complied.)

6 (Off-the-record discussion.)

7 (Back on the record.)

8 Q. (By Ms. Feeney) Are you at Page JA-17
9 on our Exhibit No. 4?

10 A. Yes.

11 Q. Okay. Great. That is a note from
12 Dover Women's Health taking you out of work from
13 May 24th, 2016 to June 10th, 2016.

14 Do you see that?

15 A. Yes.

16 Q. What was the reason you were out of
17 work in May to June of 2016?

18 A. I had had a hysterectomy done a month
19 or so before. I came back, I lifted something, I
20 pulled a muscle. I went to see him, so he wanted me
21 to rest in case anything serious had happened.

22 Q. How long were you out when you had the
23 hysterectomy?

1 A. I'm not sure.

2 Q. More than a month?

3 A. I'm not sure, honestly.

4 Q. All right. And was it approximately a
5 month before June of 2016? So was it in March or
6 April of '16?

7 A. Correct.

8 Q. All right. Can you walk me through
9 your understanding of what you needed to do to take
10 leave time when you worked at DeMoulas, whether it
11 was for a day or whether it was going to be for a
12 medical procedure that kept you out for more than a
13 day? What would you typically have to do?

14 A. Usually ask first, and then fill out
15 paperwork and send it to the HR person.

16 Q. So you would request if you were going
17 to take the time off, and then assuming that whoever
18 you requested said okay, and you then would fill out
19 leave paperwork; is that correct?

20 A. Yes.

21 Q. Do you understand what FMLA or Family
22 Medical Leave is?

23 A. If yourself or somebody in your family

1 needs to take time off from work, it keeps your job.

2 Q. Did you ever make a request for FMLA
3 leave while you were at Shaw's?

4 A. No.

5 Q. And you did make requests for FMLA
6 leave when you worked at DeMoulas; correct?

7 A. Yes.

8 Q. Do you know on how many occasions?

9 A. Probably all my surgeries.

10 Q. All right. Do you have an
11 understanding of how much time FMLA provides?

12 A. 12 weeks a year.

13 Q. 12 weeks? And do you have to earn that
14 or is that an automatic 12 weeks?

15 MS. JOHNSON: Objection to form.

16 Q. (By Ms. Feeney) Sure. You can answer.

17 A. I'm not sure when you first start how
18 long it would take, but then I think once you're
19 established, I don't know how, but then you're
20 allowed. I think it's just for full-timers, but I'm
21 not positive.

22 Q. Do you have to have a doctor help fill
23 out some of that paperwork for FMLA leave?

1 Q. (By Ms. Feeney) Can you take a look at
2 the next two pages of Exhibit 8, please? It starts
3 with the title, "Request for Family or Medical
4 Leave."

5 Do you see that?

6 A. Yes.

7 Q. And did you fill any of this paperwork
8 out?

9 A. No.

10 Q. Do you recognize anybody's handwriting
11 on this paper?

12 A. No.

13 Q. Can you take a look at the next page of
14 Exhibit 8? It also says "Request for Family or
15 Medical Leave."

16 Do you see that?

17 A. Yes.

18 Q. And do you see at the bottom it has
19 "Employee Signature"?

20 A. Yes.

21 Q. Is that your signature?

22 A. Yes.

23 Q. And the leave you are requesting is

1 from December 30th, 2016 to February 6, 2017; is
2 that accurate?

3 A. Yes.

4 Q. And it's dated January 9th, 2017, at
5 the top.

6 Do you see that?

7 A. Yes.

8 Q. Do you know when you signed this piece
9 of paper?

10 A. No.

11 Q. Okay.

12 (Artesi Exhibit No. 9 was
13 marked for identification.)

14 Q. (By Ms. Feeney) Have you had a chance
15 to look at Exhibit 9?

16 A. Yes.

17 Q. Have you seen these documents before?

18 A. I believe the beginning. The last, I'm
19 not -- probably not.

20 Q. Can we agree that this is the blank
21 FMLA form that was sent to you in early January by
22 Market Basket to complete?

23 A. I didn't get this.

1 A. My husband called the 10th.

2 Q. Not my question. My question is,
3 when was the first time you called anyone at
4 Market Basket after you returned to New Hampshire on
5 February 8th?

6 A. I would have to look at the record.

7 Q. What record would you need to look at?

8 A. The phone records.

9 Q. The ones that are in Exhibit 4?

10 A. Yeah.

11 Q. Go ahead.

12 A. This one, right?

13 Q. I think that's Exhibit 4, yeah. I
14 think they're in the beginning. There we go.

15 A. February 28th.

16 Q. And that's based on a phone record
17 that you're looking at in Exhibit 4; is that right?

18 A. Yes.

19 Q. Give me one second to catch up with
20 you, if I can, please.

21 So what number are you referring to for
22 February 28th?

23 A. 603-742-8937.

1 Q. Okay. And what number does that
2 connect to? What is that the phone number for?

3 A. The Somersworth Market Basket.

4 Q. Somersworth.

5 (Off-the-record discussion.)

6 (Back on the record.)

7 Q. (By Ms. Feeney) So at 3:06 p.m. on
8 February the 28th, you called the Somersworth
9 Market Basket; is that correct?

10 A. Yes.

11 Q. And that's the first time you called
12 your employer after returning to New Hampshire on
13 February the 8th; am I correct?

14 A. Yes.

15 Q. And you had seen Dr. Yarian on
16 February the 15th; is that correct?

17 A. Yes.

18 Q. So help me understand why Exhibit 12
19 has a date of February 22nd, 2017, on it.

20 Did you ask him for a note while you
21 were there on February 15th?

22 A. Yes.

23 Q. And seven days later, he writes

1 A. They were going to send one.

2 Q. They were going to send one to you and
3 they were going to send one to Market Basket?

4 A. Yes.

5 Q. How did you give them the information
6 to send to Market Basket?

7 A. I gave them the address.

8 Q. So you were going to have them mail it;
9 is that correct?

10 A. Yes.

11 Q. As of February 15th when you were at
12 Dr. Yarian's office for your visit, were you aware of
13 the fact that you no longer had any more FMLA time?

14 MS. JOHNSON: Objection to form.

15 Q. (By Ms. Feeney) You can answer.

16 A. No.

17 Q. Why did you wait until February 28th to
18 call your employer, to call Market Basket after you
19 returned to New Hampshire on February 8th?

20 A. Because I didn't want to deal with
21 Mr. Labatte, so I called Jerry, assuming I was still
22 covered under FMLA.

23 Q. When did you call Jerry?

1 the 9th or 10th of February?

2 A. Because it was Friday. Jerry wasn't
3 there. And me and my husband were talking about
4 letting them know, so my husband made the phone call
5 so I wouldn't have to -- I was a mess. I didn't want
6 to get on the phone with him.

7 Q. Okay. Let me talk a little bit more
8 about this.

9 So you didn't want to call the store
10 when you returned. Do I have that correct?

11 A. Yeah.

12 Q. Yet, you called Jerry Paquette on
13 February the 28th, 20 days later; correct?

14 A. Yes.

15 Q. My question is, why you didn't call
16 Jerry Paquette five days later or ten days later or
17 six days later? Why did you wait 20 days to call
18 Jerry Paquette?

19 MS. JOHNSON: Objection to form.

20 Q. (By Ms. Feeney) You can answer. Why
21 did you wait 20 days to call Jerry?

22 A. Well, my husband called to inform them
23 I was back, and then I wanted -- once I found out

1 when I was going to return to work, the week before,
2 I called Jerry. I should -- to report to Jerry was
3 not where I was at. Labatte was supposed to know.
4 He was informed from my husband, so there was no need
5 for me to call anybody else. Then I just called
6 Jerry to find out if I was on the schedule.

7 Q. Why did you ask your husband to call --

8 A. Because I didn't want to --

9 Q. You need to let me finish the question.
10 Why did you ask your husband to call
11 Mr. Labatte?

12 MS. JOHNSON: Objection to form. She's
13 answered that three times.

14 MS. FEENEY: I don't think she has,
15 but --

16 MS. JOHNSON: Well, she has.

17 MS. FEENEY: The record will reflect
18 what she said.

19 Q. (By Ms. Feeney) Why did you ask your
20 husband to call Mr. Labatte?

21 A. Because I didn't want to get harassed
22 on the phone from him.

23 Q. Oh, okay. So that's an answer that I

1 that makes any sense.

2 Q. Well, I don't know whether it makes any
3 sense or not.

4 Are you saying that DeMoulas failed to
5 accommodate your request for certain times for leave?

6 A. Well, the environment wasn't right.

7 Q. I'm not talking about an environment,
8 ma'am. I'm talking about a request that you made for
9 an accommodation that was not honored or granted.
10 What are you talking about?

11 A. I don't even know how to answer that.
12 I don't know -- the question, if you can specify
13 more. I don't even --

14 Q. Well, let me try and make it clear.
15 You told me that your disability is a mental
16 disability. Do I have that correct?

17 A. Yes.

18 Q. And so as you sit here today, on what
19 occasions did you request an accommodation from
20 DeMoulas for your mental disability? Can you think
21 of any? If you can't, that's fine. I just want to
22 know what it was.

23 A. I can't think of any.

1 Q. (By Ms. Feeney) You were granted leave
2 when you had your hysterectomy; correct?

3 A. Yes.

4 Q. And you had to take time off after the
5 hysterectomy at your doctor's prompting; is that
6 correct?

7 A. Yes.

8 Q. And you were granted that time off; is
9 that correct?

10 A. Yes.

11 Q. All right. What did anyone at
12 DeMoulas, including but not limited to Mr. Labatte,
13 ever say to you about your mental disability or your
14 mental illness?

15 MS. JOHNSON: Objection to form.

16 THE WITNESS: Can you repeat that?

17 MS. FEENEY: Sure. Would you read the
18 question back?

19 (Last question was read.)

20 MS. JOHNSON: Same objection. You can
21 answer.

22 THE WITNESS: Well, he made some nasty
23 comments.

1 Q. (By Ms. Feeney) Specifically what?

2 A. After my hysterectomy, he said, "What
3 are you good for now?"

4 Q. Ma'am, I'm asking about your mental
5 disability.

6 MS. JOHNSON: You just asked about her
7 hysterectomy.

8 MS. FEENEY: I did not.
9 Read the question back, please.

10 (Last question was read.)

11 THE WITNESS: He said I wasn't right.

12 Q. (By Ms. Feeney) Mr. Labatte said you
13 weren't right, referring to your mental illness?

14 A. Yes.

15 Q. When did he say that?

16 A. I don't know the dates. Years ago.

17 Q. Years ago?

18 A. Yes.

19 Q. What else did Mr. Labatte or anyone say
20 about your mental disability?

21 MS. JOHNSON: Objection to form.

22 MS. FEENEY: Hold on. What about my
23 form is a problem?

1 MS. JOHNSON: Or it's conjunctive.

2 MS. FEENEY: I'll happily rephrase it.

3 Q. (By Ms. Feeney) What did Mr. Labatte
4 say about your mental disability besides you weren't
5 right? Anything else?

6 A. Not that I can think of right now.
7 Nothing's --

8 Q. Did anybody else at DeMoulas ever make
9 a comment about your mental disability at any time?

10 A. Yeah. It was like a joke to them.

11 Q. Who specifically and when?

12 A. I don't remember names and I can't
13 think of anything.

14 Q. You had your hysterectomy in March of
15 2016; is that correct?

16 A. Yes.

17 Q. Did you tell anyone at DeMoulas that
18 you were having a hysterectomy?

19 A. Yes.

20 Q. Who did you tell?

21 A. Mr. Labatte, the produce manager at the
22 time, Paul Wood, coworkers.

23 Q. Did Mr. Labatte ever make any comments

1 about your hysterectomy?

2 A. Yes.

3 Q. What did he say and when?

4 A. "What are you good for now?"

5 Q. When did he say that?

6 A. I don't know. Around the time after
7 the hysterectomy, I believe.

8 Q. So sometime in, what, April or so, or
9 May of 2016?

10 A. Somewhere in 2016.

11 Q. Well, I want to know, was it close in
12 time to the hysterectomy, which was March of 2016?

13 A. Yes. It was in 2016 around the
14 hysterectomy.

15 Q. Okay. Can we agree it was sometime
16 between March of 2016 when you had your surgery and
17 when you came back in April or May?

18 A. No. Because it could have been
19 August. I don't know.

20 Q. Well, that's my question.

21 A. There was plenty of comments.

22 Q. Not my question. When did he make the
23 comments?

1 A. In 2016.

2 Q. But you don't know when.

3 A. No.

4 Q. Did he make it more than once?

5 A. That statement, I think he said it
6 once.

7 Q. Okay. Did anyone else make any
8 comments about your hysterectomy besides Mr. Labatte?

9 A. No.

10 Q. Did Mr. Labatte make any other comments
11 about your hysterectomy other than the one you just
12 told me about?

13 A. Who would want me now.

14 Q. When did he say that?

15 A. After the hysterectomy in 2016. I do
16 not know the month.

17 Q. On how many occasions did he say that?

18 A. A couple.

19 Q. More than two?

20 A. About two.

21 Q. Was anyone present when he made the
22 comment, Who would want you now?

23 A. No. But the other one there was

1 Q. You understood that the company had an
2 anti-harassment policy; correct?

3 A. Yes.

4 Q. And each year you would sign that you
5 received and understood the policy. I can bring the
6 documents out. But to save time, I'd just like to
7 know if you recall that.

8 A. Yes.

9 Q. All right. And yet despite knowing
10 about the anti-harassment policy and being aware of
11 it, you chose not to tell anyone about Mr. Labatte's
12 comments to you; is that accurate?

13 MS. JOHNSON: Objection to form.

14 THE WITNESS: I did tell a few people.

15 Q. (By Ms. Feeney) Did you tell any
16 supervisors?

17 A. No.

18 Q. Paragraph 19, you indicate that you
19 told Jerry Paquette on several occasions about
20 comments that Mr. Labatte has made.

21 When did you tell Mr. Paquette?

22 A. When he made them and I don't know
23 when.

1 A. Yes.

2 Q. All right. You got a letter
3 terminating your employment when you didn't return
4 to work on January 23rd; correct?

5 MS. JOHNSON: Objection to form.

6 THE WITNESS: Yes.

7 Q. (By Ms. Feeney) Tell me what happened
8 on March 6th when you reported into work.

9 MS. JOHNSON: Are you done with this
10 one?

11 MS. FEENEY: Well, I might go back to
12 it.

13 MS. JOHNSON: Oh, okay.

14 Q. (By Ms. Feeney) Just tell me what
15 happened on March 6th when you went in.

16 MS. JOHNSON: So you don't need to look
17 at this.

18 Q. (By Ms. Feeney) You don't need to look
19 at that to give me the answer. Put that aside and
20 just listen to my question.

21 A. I did. I was getting ready to tell
22 you.

23 Q. Okay.

1 A. I went into work before six o'clock
2 waiting for Mr. Labatte to show up. Talked to
3 Linda -- sorry. I punched in and then I waited for
4 him to show up. He came in, looked at me and said,
5 "Why do you think you have a job?" Then he went
6 upstairs, so I followed him upstairs.

7 Then we talked and he said he didn't
8 get any information on me. He didn't know if I was
9 alive or dead, and that he would -- well, he was very
10 short -- he'd have to speak to Shea, and he would get
11 in touch with me later to come back and have a
12 meeting with Shea.

13 Q. Okay. Did another meeting take place?

14 A. Yes. I came back -- he had called me
15 -- Mr. Labatte had called me and told me to be back
16 at the front of the store at 3:30 that day.

17 Q. And tell me what happened then.

18 A. Mr. Shea, Mr. Labatte, me and a girl in
19 the office started -- them two went out into the back
20 office. I was at the courtesy booth. The girl from
21 the courtesy booth said, We're supposed to go down.
22 When we got in there, the girl in the courtesy booth
23 just sits there and tells all the stores all the

1 information.

2 So I had asked, "Can I have somebody
3 else in this office with us?"

4 And he said, "Who?"

5 And I said, "Crystal," because she's
6 POS. They use her a lot to be sitting in offices for
7 a witness to be in conferences or in meetings.

8 Q. Okay.

9 A. So she had come in and then Mr. Shea
10 had said to me, because of my abandonment, I didn't
11 have a job anymore.

12 And I said, "Out of 72 stores," I
13 think I said, "you don't have one place?"

14 He said, "No. We've already replaced
15 you."

16 And then I said, "When was I
17 terminated?"

18 He goes, "Sometime last week."

19 Q. Did you talk to anybody else either on
20 that day or any other day concerning your
21 termination?

22 MS. JOHNSON: Object to the form.

23 THE WITNESS: My husband.